

AN ACT

To amend chapter 197, RSMo, by adding thereto one new section relating to restrictions on the licensure of hospitals.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Chapter 197, RSMo, is amended by adding thereto one new section, to be known as section 197.065, to read as follows:

197.065. 1. No initial licensure shall be granted to establish or maintain an acute care hospital unless:

(1) The department of health and senior services determines the suitability and responsibility of the prospective licensee in accordance with rules of the department;

(2) All financial transactions, including remuneration of all officers of hospitals affected by the transaction, are disclosed as part of the licensure process and a public hearing is held in accordance with the procedures established by rule of the department prior to the granting of the license;

(3) The applicant agrees to maintain or increase the percentage of gross patient service revenues allocated to free care. The provisions of this subdivision shall also apply to any subsequent successor or acquirer of the hospital. The department may permit the applicant to reduce such percentage if the department determines that demographic or other changes in the

hospital's service area justify a reduction in such percentage.

The department shall promulgate rules to enforce this subdivision and any agreement made by an applicant concerning free care;

(4) The applicant submits a plan approved by the department for the provision of community benefits, including the identification and provision of essential services. In approving the plan, the department may take into consideration the applicant's existing commitment to primary and preventative health care services and community contributions of the predecessor hospital. The department may waive such requirement in whole or in part at the request of the applicant that has provided or at the time of application is providing substantial primary and preventive health care services and community contributions in its services area; and

(5) If the request for licensure results from the merger or acquisition of the hospital, the board of trustees or board of directors of the hospital publicly presents and evaluates all proposals for such merger or acquisition in accordance with the rules promulgated by the department.

2. For purposes of this section, the department's determination of suitability and responsibility shall include the following factors:

(1) The financial capacity of the prospective licensee to operate the hospital in accordance with applicable laws;

(2) The history of the prospective licensee in providing acute care, including in states other than Missouri, if any, measured by compliance with the applicable state laws and regulations governing the operation of hospitals in such states;

(3) The participation of persons residing in the primary service area in oversight of the resulting hospital; and

(4) Whether the transaction will create a significant effect on the availability or accessibility of health care services to the affected communities.

3. Any hospital planning to close the hospital or discontinue any essential services provided by the hospital shall inform the department one hundred twenty days prior to such closing or the discontinuance of any essential health service. The department shall by rule define essential health services for purposes of this section. If a hospital proposes to discontinue essential health services, the department shall:

(1) Determine whether any such discontinued services are necessary for preserving access and health status in the hospital's service area;

(2) Require the hospital to submit a plan for assuring access to such necessary services following the hospital's closure of service;

(3) Assure continuing access to such services if the department determines that the closure will significantly reduce

access to necessary services; and

(4) Conduct a public hearing prior to a determination on the closure of such essential services or the hospital.

4. If the department finds upon inspection or through information in its possession that a licensee is not in compliance with the requirements of this section, the department may order the licensee to correct such deficiency. Each such correction order shall include a statement of the deficiencies found, the period prescribed within which the deficiency must be corrected, and the provisions of law relied upon. For a licensee ordered to correct deficiencies, the department may assess a penalty of no less than one thousand dollars and not more than ten thousand dollars per deficiency for each day the deficiency continues to exist beyond the date prescribed for correction. Within seven days of receipt, the affected licensee may file a written request with the department for administrative reconsideration of the order or any portion thereof.

5. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.